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OFFICE OF THE MERIT COMMISSIONER

Province of British Columbia

2006/2007 Annual Report

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OFFICE OF THE
MERIT COMMISSIONER

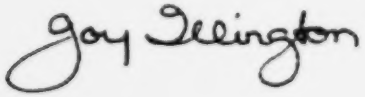
The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present the 2006/2007 Report to the Legislative Assembly in accordance with section 5.2 (1) of the *Public Service Act*. This annual report covers the period of April 1, 2006 to March 31, 2007.

As an Officer of the Legislative Assembly I would be pleased to appear and report further on these matters at the request of the Members of the Legislative Assembly.

Respectfully submitted,



Joy Illington
Merit Commissioner

Victoria, British Columbia
August 2007

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OFFICE OF THE
MERIT COMMISSIONER

Message From The Merit Commissioner

It is my pleasure to present the sixth annual report for the Office of the Merit Commissioner.

In 2006, the BC Public Service had about 30,000 people working for more than four million British Columbians. It is the largest corporate workforce in the province, with over 200 diverse job streams, in every area of the province. The *Public Service Act* requires that appointments to this workforce should be based on the principle of merit and be the result of a process designed to appraise the knowledge, skills and abilities of applicants. My office provides oversight and insight into the application of the principle of merit to hiring and promotion appointments in the BC Public Service.

The Office of the Merit Commissioner was made independent of government in 2005. Independent verification of the integrity of appointments to the BC Public Service is clearly important to all 79 Members of the Legislative Assembly and to the public that they have been elected to represent.

The Merit Commissioner monitors the application of the principle of merit in two main ways. The first is by conducting random audits of appointments made within the past calendar year to, and from within, the public service. The audits check whether the appointments were the result of a merit-based recruitment and selection process and whether the individuals appointed were qualified to do the job. The second method of oversight is to provide a final and binding decision to expedited appeals by employee applicants of proposed appointments in bargaining unit positions.

The audit of appointments made in 2006 was the largest ever done, and was completed in July, 2007. Results were reported individually to Deputy Ministers and heads of every organization that was audited, and are summarized in this annual report. I have strongly encouraged audit results and reports be shared with the hiring managers who have been delegated the responsibility to decide how best to recruit, assess, and select people for appointments. An independent audit provides one way to hold managers accountable for their results; to recognize work done well; and for heads of organizations to take action so that problems that are identified are not repeated.

The results of the audit were encouraging but show areas where improvement is needed. 81% of appointments audited were found to be merit-based. A further 15% were also found to be merit-based but the process of recruiting or selection involved exceptions to staffing policies or to collective agreement obligations.

In the audit, 3% of the appointments were the result of a process that could not reasonably be said to be fair. In each of these cases where a merit-based process was not found, there was inconsistent treatment of applicants or an unreasonable decision which compromised the integrity of the process. 1% of the appointments audited lacked the documentation necessary to be able to draw a conclusion. This too is unacceptable, as hiring and promotion decisions need to be documented as well as any other business agreement.

There was no evidence that any individual was not qualified for the position to which he or she was appointed, nor was any appointment found to be based on patronage.

The Merit Commissioner's Office has also reported the detailed results to the Head of the BC Public Service Agency, and is tracking audit results to look for improvement in performance from year to year. A summary of results by organization is included in this report as Appendix E.

Although the 2006 audit shows that overall 96% of appointments were the result of a merit-based process, the audit results do not reflect the whole picture. In 2006, a Work Environment Survey was sent to all regular and auxiliary employees of every ministry (except the Ministry of Transportation). 14,539 employees replied. One question asked whether in their work unit, the process of selecting a person for a position was based on merit. Only 40% of employees agreed. Fully 33% of those who replied, disagreed. To find out the reasons for these responses, the Merit Commissioner's Office commissioned focus groups with employees in various parts of the province. This project began in May, 2007 and will be the subject of a public report when it is completed. It is this Office's goal to provide insight into the application of merit in the public service, as well as oversight.

Why should there be concern about what employees think about merit-based staffing? Merit-based staffing practices are one of the ten critical building blocks of the BC Public Service model of employee engagement. Employees make a link between fair staffing practices and receiving recognition for work performed, having opportunities for training and development, and with whether they see a future for themselves in the organization. All of these factors are key to having employees who feel valued, who are satisfied with their opportunities and who are committed to staying with the BC Public Service and recommending their workplace to others. I believe government's goal of a highly-engaged work force can only be achieved with merit-based staffing practices.

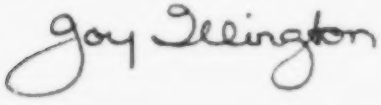
The challenges currently facing those who manage the BC Public Service are a large number of pending retirements, a small available pool of labour and global competition for skilled workers. 35% of current bargaining unit employees and 45% of managers are eligible to retire

within the next seven years. This is just over 10,000 people or about one third of the current public service. Managers and supervisors must retain and develop current employees, and recruit sufficient newcomers to be able to deliver government services for British Columbians.

Government's Corporate Human Resources Plan released in October 2006 is responding to these challenges. I support the efforts to build internal capacity, to manage for results and to increase the ability of the BC Public Service to compete for scarce labour. My oversight role will ensure that hiring efficiencies will continue to include merit-based appointments.

Special thanks are due to my staff Dodie Barber and Lucy Rutkauskas who helped set up this first year of the independent office and who have produced two annual reports, established a professional team of auditors, implemented an ambitious plan to conduct the largest merit audit ever done of the public service, and who have supported a pro-active outreach program. I also thank the Audit Advisory Committee and the auditors for their diligence and analysis in the 2006 annual audit.

Our Office will continue to provide further insight into the application of the merit principle in public service hiring through a special audit of direct appointments (made without competition), and by conducting a broader audit of appointments made in 2007. I look forward to reporting what I find to all the key stakeholders of the BC Public Service including MLA's, Deputy Ministers and heads of organizations, managers, the BC Excluded Employees' Association, the three bargaining organizations — the BCGEU, the Professional Employees' Association and the Nurses' Bargaining Association — and the public.



Joy Illington
Merit Commissioner

Public Service Staffing System — Accountabilities

BC Public Service Agency — sets staffing policies and procedures and provides staffing support and consultation to clients.

Ministries — responsible for the first two steps in an internal staffing review process and for staffing activities delegated by the Deputy of the BC Public Service Agency.

Merit Commissioner — responsible for providing systemic oversight of the application of the merit principle in the BC public service and for providing a review of the application of merit as the final step in an internal staffing review process for positions in the bargaining units.

Corporate Overview — Office of the Merit Commissioner

Vision — A professional and non-partisan public service.

Mission — To serve the people of British Columbia and the Legislative Assembly by monitoring public service appointments to ensure application of the merit principle.

Principles — The Merit Commissioner will operate in a manner consistent with the following principles:

- Fairness and impartiality;
- Personal and managerial independence;
- Confidentiality;
- Accountability to the Legislative Assembly and British Columbians.

Key Responsibilities — The Office of the Merit Commissioner will:

- Monitor the application of merit by conducting audits of public service appointments;
- Provide a review of the application of merit as the final step in an internal staffing review process for positions in the bargaining unit;
- Report annually to the Legislative Assembly on the application of the merit principle in public service appointments.

The Office of the Merit Commissioner may:

- Undertake special reports or "merit performance reviews" of system-wide issues respecting the application of the merit principle;
- Undertake surveys and research to assess the attitude of public service employees towards the application of the merit principle in the public service.

The Merit Principle in the BC Public Service

Merit has been the foundation of staffing in the public service for almost 100 years and has developed, over time, to the provision found today in the *Public Service Act*. This states that appointments to, and from within, the public service are to be based on the principle of merit.

Merit means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job. The *Public Service Act* states that the matters to be considered in determining merit must, having regard to the nature of the duties to be performed, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

Fundamental to a merit-based staffing process are the following key, overarching principles, which originate in legislation and in policy:

- staffing decisions are based on fair and equitable treatment of all applicants;
- open and transparent staffing processes and practices are followed;
- efficient and effective staffing practices, capable of recognizing and responding to current and future organizational requirements, are developed;
- flexible and innovative staffing processes, which reflect the nature and responsibilities of individual positions, are utilized;
- the public service is a single employer with a focus on broader corporate competencies; and
- diversity is valued and respected.

These principles support a results-based approach to staffing and are considered in the Merit Commissioner's audit and review of appointment decisions.

What is the Principle of Merit?

Merit means that appointments will be:

- Non-partisan; and
- Based on an assessment of competence and ability to do the job.

Year in Review

1.0 Merit Performance Audits

1.1 The Audit Process

Section 5.1 of the *Public Service Act* requires the Merit Commissioner to monitor the application of merit by conducting random audits of appointments to, and from within, the public service.

The audits assess whether:

a) the recruitment and selection processes were applied properly, resulting in appointments based on merit; and

b) the appointed individuals possessed the required qualifications for the position.

The audit process is based on professional audit standards and methodology to ensure the necessary level of rigour and objectivity in assessing the application of merit. Accordingly, the Internal Audit and Advisory Branch of the Ministry of Finance assisted in designing and developing a program to review the application of merit on completed appointments.

An overview of the audit process and program is included in this report as Appendices A and B.

To obtain an unbiased picture of the proper application of merit across the public service, the appointments selected for audit are both random and representative. The random sampling process, administered by BC STATS, is described in their report, "Random Selection for Merit Performance Audits," and included in this report as Appendix C.

1.2 Audit Advisory Committee

A priority for the 2006 Audit was to build a quality chain into the project management of the audit process by means of consultation, advice, planning, challenge and review. An Audit Advisory Committee was formed for this purpose. The Committee membership was selected on the basis of skills, insight, relevant knowledge and experience with performance audits. Its principal role is as a forum to provide advice, review and challenge of the audit work plan over the next three years.

1.3 Audit Scope

The Merit Commissioner has jurisdiction over those appointments required by the *Public Service Act* to be based on the merit principle. These include auxiliary appointments, regular appointments, temporary appointments less than 7 months, temporary appointments greater than 7 months, and direct appointments by the Head of the BC Public Service Agency. It should be noted that the Act exempts appointments considered to be lateral transfers or demotions from the application of the merit principle. Appointments made through Order-in-Council are also not under the jurisdiction of the Merit Commissioner.

The Act specifically requires the Merit Commissioner to use random audits to assess whether the "recruitment and selection processes were properly applied to result in appointments based on merit". Appointments that are subject to random audit, therefore, are those that are required by the Act to be the result of a process that assesses applicants. These are regular appointments and temporary appointments greater than 7 months. Although an assessment of applicants is not required by the Act for direct appointments, they are also included in the random audit to ensure that ministries are appropriately seeking the approval of the Head of the BC Public Service Agency prior to making the appointment.

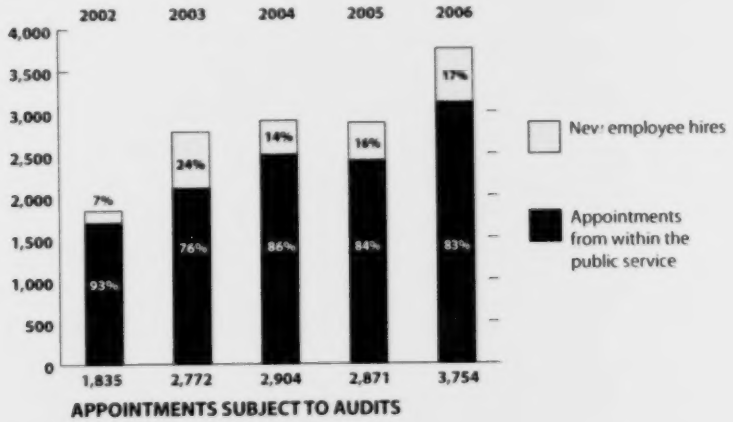
Ministries, organizations, agencies and commissions within the jurisdiction of the Merit Commissioner are those whose employees are appointed under the *Public Service Act* to positions in a bargaining unit (BCGEU, Professional Employees' Association or the Nurses' Bargaining Association) or to management excluded positions. A list of these organizations is included in this report as Appendix D.

Appointments are identified, for the purposes of the random audit, through the Corporate Human Resource Information and Payroll System (CHIPS). There are 3 organizations that do not enter their appointment information in CHIPS (the Liquor Distribution Branch, Forensic Psychiatric Services Commission and BC Mental Health Society) and they are excluded from this year's random audit. The Liquor Distribution Branch, however, will be included in the 2007 audit of appointments through a separate reporting of appointment information to this office.

1.4 Appointment Details

Appointments subject to random audit are temporary appointments over seven months, regular/permanent appointments and direct appointments. In 2006, there were 3,754 appointments in these categories. This is an adjusted number. The BC Stats report, included in this report as Appendix C, provides details on the adjustments made to the initial population of appointments identified.

There was a 31% increase in the total number of appointments in the audit population for 2006 compared to appointments made in 2005. The following graph shows the year-to-year comparison of appointments made over the last 5 years.



New employees to the public service accounted for 17% of all appointments included in the 2006 audit population, while 83% of the appointments were made within the public service. This is similar to 2005, when new employees accounted for 16% of all appointments in the 2006 audit population.

6.5% of the appointments in the audit population were temporary appointments for longer than 7 months, a decrease from 2005 when these appointments accounted for 14%. The largest category of appointments in the audit population was regular appointments, accounting for 92%.

Victoria, as a location, continues to have the highest number of appointments (47%). This is consistent with previous years.

1.5 Audit Sample Details

For the 2006 calendar year, 308 appointments in ministries or agencies were audited. The BC Stats report, included in this report as Appendix C, provides details on the random selection process.

Of the 308 appointments audited,

- 254 (82.5%) were appointments of existing public servants
- 54 (17.5%) were new hires to the public service
- 22 (7.1%) were temporary appointments for longer than 7 months
- 286 (92.9%) were regular appointments, of which 279 (90.6% of the total) were the result of a selection process and 7 (2.3% of the total) were the result of a direct appointment by the Head of the BC Public Service Agency
- 73 (24%) were appointments excluded from a bargaining unit and 235 (76%) were appointments to a union position.

1.6 Audit Results

Following are the conclusions for the 308 appointments audited:

1.6.1 Qualifications of the Individuals Appointed

Conclusion	Number of Appointments
Individuals appointed possessed the required qualifications for the positions to which they were appointed	308 (100%)
Total Appointments Audited	**308**

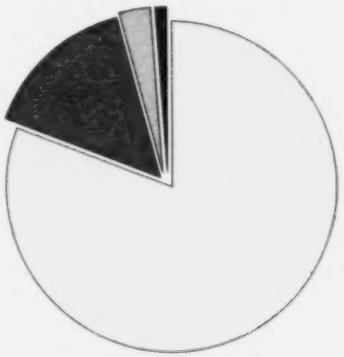
There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage. The files provided to the Office of the Merit Commissioner to support the 308 audited appointments provided evidence of up to 423 additional appointments made from those competitions. There was no evidence to suggest that any of these individuals were unqualified for the positions to which they were appointed or that the selection was based on patronage.

1.6.2 Merit in the Selection Process

Conclusion	Number of Appointments
Merit Applied	249 (81%)
Merit Applied With Exception*	47 (15%)
Merit Not Applied	9 (3%)
Unable to Determine	3 (1%)
Total Appointments Audited	**308**

Discussion about each category, including details of specific findings, is included in this report as section 1.8 "Audit Comments and Observations".

Audit of 308 Appointments



Merit in the selection process:

249 appointments were based on merit **(81%)**

47 appointments were based on merit, with exception* **(15%)**

9 appointments were not based on merit **(3%)**

3 appointments were inconclusive **(1%)**

A summary of the findings, by organization, is included in this report as Appendix E.

* Appointments in the "Merit Applied with Exception" category were merit-based, but the selection process involved exceptions to staffing policies or to collective agreement obligations.

1.7 Year-to-Year Comparison of Merit Performance

In 2006, the number of cases audited was more than four times that of 2005. The audit results have remained relatively consistent over time.

	2002	2003	2004	2005	2006
Total # of Appointments Audited	30	40	39	70	308
Merit Applied*	26 (87%)	39 (98%)	38 (97%)	68 (97%)	296 (96%)
Merit Applied with Exception	N/A	N/A	N/A	8 (11%)	47 (15%)
Merit Not Applied	3 (10%)	1 (2%)	1 (3%)	–	9 (3%)
Unable to Determine	1 (3%)	–	–	2 (3%)	3 (1%)

* In this table the "Merit Applied" category includes a subset of appointments that were categorized as "Merit Applied with Exception". All these appointments were merit-based but in the "Merit Applied with Exception" category the selection process involved exceptions to staffing policies or to collective agreement obligations. It should be noted that because the criterion was established by the Merit Commissioner upon her appointment as an independent officer of the Legislature in May 2006, there are no comparisons provided for appointments earlier than 2005.

1.8 Audit Comments and Observations

With a sample more than four times the size of any previous year, the 2006 audit was the largest undertaken by the Office of the Merit Commissioner. A total of 308 appointment files were audited which represents 8% of all in-scope appointments made that year.

Audits provide objective information about the integrity of hiring decisions. The *Public Service Act* requires that appointments be based on the principle of merit and that specific appointments be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants. Some factors to be considered in determining merit are also set out in the Act. They include the applicant's education, skills, knowledge, experience, past work performance, and years of continuous service in the public service.

In addition to the legislated requirements for the process, there are public service hiring policies and collective bargaining agreements about hiring and selection.

The legislation requires a two-fold test in the determination of merit: (1) the merit in the appointment, i.e., that the individual appointed was qualified for the job and (2) the merit in the process, i.e., that it was fair and was designed to select the best qualified individual.

Of the 308 appointments audited, only 9 were found not to have merit applied in the process. In every appointment audited, even when the merit of the process was found to be flawed, it is important to note that the 2006 audit found that the individual(s) appointed were qualified for the job. Our auditors did discover a competition where a person was neither shortlisted nor interviewed, but was inadvertently placed on an eligibility list for a future appointment. This mistake was immediately brought to the hiring manager's attention who confirmed that the term of the eligibility list had expired and that the person had not been appointed. If this person had been appointed, our audit would have found that merit was not applied because the person was not qualified for the job.

The auditors are not attempting to substitute their judgement for that of hiring managers. Auditors look at the selection criteria the manager has determined to be critical for the job and review the process the manager used to assess applicants against these criteria. Auditors determine whether candidates were treated consistently and fairly, whether the process was transparent, and whether decisions that were made on screening, shortlisting, assessing, and selecting were reasonable. Auditors note whether the results of the process have been communicated to all employee applicants, whether collective agreement provisions have been applied, where appropriate, and whether decisions have been documented.

The following comments identify the most problematic areas and some of the good practices that were found during the 2006 audit. These observations are offered for the purposes of continuous improvement for those accountable for appointment decisions in the BC Public Service.

Documentation

Similar to observations noted in the 2005 audit, many of the files audited were missing records. Managers are accountable for their staffing decisions, and the policy to retain a complete file documenting the process and decisions provides assurance to employees, oversight agencies and the public that the integrity of the appointment can be upheld. Given that the

annual payroll of the BC Public Service is more than $2 billion a year, hiring decisions are serious business decisions with long term consequences, and must be documented no less comprehensively.

Having a complete file that supports an appointment decision is also critical if there is an appeal of a proposed or pending appointment. Good documentation will enable managers to provide accurate feedback to applicants who request it, will support Deputy Ministers who may undertake an internal inquiry and will be required by the Merit Commissioner's Office whenever specific appointments are reviewed.

Our auditors compare documented evidence of performance against predetermined criteria. Although the type and nature of the documentation will vary based on how a hiring manager has designed the staffing action, there are certain common elements related to any staffing process. Auditors are required to gather sufficient documentation or other evidence provided by the manager to justify that the steps and decisions made throughout the selection process uphold the merit principle and that the individuals appointed possessed the required qualifications for the job.

Only 12% of all the files audited were completely documented, with no requirement for the auditor to follow-up with hiring managers for further information. In most of the other cases, however, the auditors managed to obtain missing or clarifying evidence to complete the audit and make a decision.

In 3 cases there was simply insufficient evidence to come to a conclusion regarding the merit in the process, and these decisions have been reported as "Unable to Determine". In one of these cases, there was no documentation to support the reference check on the top-ranked candidate that changed the assessment allowing the second-ranked candidate to be appointed. In the other 2 cases, there was simply no information available to indicate how applicants were screened, shortlisted, assessed, rated or notified.

In 21 of the 308 appointments audited, although the auditor found sufficient evidence to infer a meritorious process and that the individuals appointed were qualified, the findings were flagged with an exception due to poor documentation. Most of these files lacked documentation to support candidates' ratings or ranking such as the results of written tests, assessment and reference check notes. There were 5 competition files lacking documentation to confirm how the appointed candidate met the

stated selection criteria for the position. In each instance, the competition attracted only 1 qualified applicant who was already acting in the position and was appointed on the basis of their satisfactory performance. Documenting adds transparency and credibility to the overall process.

Selection Processes

Of the appointments included in the random audit, 5 were approved as "direct appointments" by the Head of the BC Public Service Agency for reasons substantiated by the managers as being exceptional or unusual. No competition is required in these cases. The audit was satisfied in all these appointments that the individuals were appointed appropriately and were qualified to do the job.

Other than direct appointments, all other appointments audited are required by the *Public Service Act* to be the result of a process that assesses applicants' knowledge, skills and abilities on a relative basis.

The auditors reviewed 280 selection or competition processes, as a few appointments in the audit sample were the result of the same competition. Included were competitions that were widely advertised and available both to the general public and to current public service employees; opportunities that were available to employees only; and opportunities that were available to employees in a specific geographic location, for certain designated groups, or internal to a specific organizational unit.

Of the files audited, 57% of the opportunities were available to the general public and 43% were available to all or specific groups of employees. One third of the competitions held resulted in more than one appointment being made and just over one third of the competitions established an eligibility list. Competitions open to the general public, as opposed to those restricted to current employees, resulted in a greater number of appointments made on average and a higher percentage of these established eligibility lists.

In one case where the appointment was found not to be merit-based, the manager appointed an individual directly into a position for a period greater than 7 months without regard to the collective agreement requirement to post the opportunity, thereby denying any opportunity for others to compete for the

position. Further, the manager did not undertake a specific assessment of the individual's qualifications against the requirements of the position. During the course of the audit the hiring manager assured the Office of the Merit Commissioner that the opportunity would immediately be posted and candidate(s) assessed, which has since been confirmed as having been done.

The audit noted one case where an excluded auxiliary employee was permanently appointed to the position she was in on the basis of a merit-based selection process used to recruit her as an auxiliary employee 12 months earlier. The earlier process was advertised to the general public and applicants were assessed against the factors of merit. When the position became available on a regular, on-going basis, the manager relied on the previous competition results to appoint the employee on a permanent basis. The factors that were considered in finding that the permanent appointment was merit-based were that the position was excluded from a bargaining unit, the employee had previously been involved in a full competitive process for the same position, the application of merit had already been satisfactorily proved, and the individual had performed well in the position. This example provides insight into future practice and highlights the advantage of fully competing and assessing candidates' knowledge, skills and abilities relative to specific positions at the onset of auxiliary or temporary assignments.

Some appointments audited were the result of competitions that were specifically designed to establish pools or inventories of qualified candidates. For example, one such competition was a corporate cross-ministry recruitment pilot project, jointly sponsored by the Senior Financial Officers Council and the BC Public Service Agency, for difficult-to-fill financial officer positions across the province. The project created a readily available inventory of 34 qualified applicants, at the Financial Officer 18 classification, from which ministries could request referrals over an 11-month term. The project resulted in reducing the hiring time in filling these positions. The process was deemed merit-based.

Another example came from a ministry which conducted a well-organized, large-scale recruitment campaign, resulting in over 100 appointments to a hard-to-recruit position in locations across the province. A large eligibility list was also established. Applications were received from across Canada, United States,

United Kingdom, and Norway. Applicants were provided with comprehensive information about the program, the available positions, and tips for preparing for a competency-based interview. An on-line application system was used, and applicants were assessed by various interview teams across the province. The process was deemed merit-based.

The audit included competitions that were designed to fill a specific position in a specific location as well as on-going competitions, with no closing date, that were designed to continuously accept applications for future opportunities. One such on-going competition was for a specific job stream for locations across the province, and provided managers in the organization with a ready supply of pre-screened candidates for the locations currently recruiting. The managers were able to immediately assess the applicants against the requirements of the specific jobs needing to be filled. The process was deemed merit-based.

Restrictions

In 2006, ministries had the authority to restrict competitions to geographic areas, to certain designated groups, to employees, or to specific organizational units provided that there was a clear rationale for limiting the pool of applicants.

The audit of one competition found it to be unreasonably restricted and not a merit-based process. The restriction to employees of an organizational unit was so narrow that effectively only one individual was qualified to apply. Although the individual was qualified for the job, the appointment decision was a foregone conclusion. This was not a genuine competition. Where there are unusual or exceptional circumstances that would preclude a competitive process, there is a legitimate route to request a direct appointment through the Head of the BC Public Service Agency.

As noted, 43% of the competitions audited were restricted to current employees. Of those, 46% were restricted even further, either geographically and/or by organization or department. At least 17% of those competitions with multiple restrictions were won by the individual who was in the position in an acting capacity.

The auditors noted 29 cases where only a single candidate was assessed, i.e., where the competition attracted only one

applicant or, if there were multiple applicants, only one applicant was shortlisted. 23 (79%) of the 29 single-candidate assessment processes were in-service opportunities, and 70% of these placed further restrictions on the employee applicant pool such as location and/or specific organizational unit. Over 58% of the individuals appointed in these cases had been acting in the position they competed for.

Similar to comments made in the 2005/2006 Annual Report, the percentage of restricted competitions is noted as a concern because this practice counters the efforts of the public service to recruit more broadly in order to renew the BC Public Service and to make it more representative of all British Columbians. The Corporate Human Resource Plan, released October, 2006, indicated that all competitions are to be open to the public. Future audits are expected to show a reduction in the number of restricted competitions.

Assessment

The audit this year has demonstrated that there are a variety of tools being used by managers to shortlist applicants and to assess the knowledge, skills and abilities of candidates. As examples, some competitions required candidates to apply using an on-line application system, answer "applicant questionnaires", undertake initial pre-screening tests, write exams, make presentations, prepare essays, case studies, letters and briefing notes, go through oral interviews including behavioural-based competency interviews, take on-line computer tests, and provide previous work samples. Some managers utilized multiple and comprehensive assessment methods, while other managers used a single method, to test the factors of merit.

Auditors look at the assessment process to make sure it is consistent with the stated selection criteria, is reasonable and is based on factors relevant to the job. The assessment process should be supported by pre-established questions/expected responses and designed to measure the knowledge, skills, abilities and competencies of the candidates, as appropriate. Further, auditors determine whether candidates were assessed and evaluated in a manner that is consistent with the principles of transparency, consistency, relevancy and reasonableness, and that the assessment results, ratings and notes support the appointment decision.

Five files audited were found not to be merit-based as the screening process was not conducted in a fair, consistent, reasonable or transparent manner.

In one competition, although the posting did not indicate that lesser qualified applicants would be considered, some lesser qualified applicants were advanced for assessment while other more qualified applicants were not included. In another competition, there was a qualified individual who clearly met the mandatory qualifying criteria but was not shortlisted.

In two other cases, applicants were excluded from further consideration based on their previous (unsuccessful) performance on a competition for the same position they had competed on a few months earlier. The salient issue in both these cases is that the assessment processes were significantly altered for the latter competition they applied for. This resulted in one group of applicants being screened on the basis of the mandatory qualifying criteria, while another group of applicants were screened on the basis of having failed a previous competition. This inconsistent treatment of applicants is not reasonable as it pre-supposed the previous group of applicants would fail a different exam (and presumed no new knowledge gained over the space of a few months.)

The final case involved a manager who accepted and appointed a late candidate after previously rejecting other qualified candidates for applying past the deadline.

Some appointments, although found to be the result of a merit-based process, were flagged by the auditor as an exception. Most of these cases involved flaws or errors that, though they did not impact the final appointment decision, they compromised the integrity of the process. For example, in one competition, the audit discovered an adding error which resulted in the wrong candidate being offered the position. Had the scores been correctly added, the second ranked candidate would have received the appointment instead of being placed first on the eligibility list. The audit noted, however, that this candidate did receive an immediate appointment from the eligibility list and therefore was not impacted.

In another 6 files, errors were found in the assessment of candidates' years of continuous service, a factor of merit. These errors concerned the use of the "relatively equal" calculation, which is the agreed method for assessing

candidates' years of continuous service for positions covered by the requirements of the BCGEU Collective Agreement. Incorrect calculations, or the neglect to assess the factor, resulted in the incorrect placement of candidates. The errors, however, did not affect any of the appointments made.

In over 5% of the files, the auditors observed minor errors in the tabulation of scores. Although these errors had no impact, they could have compromised the overall process and resulting appointment decisions. As candidates' scores determine their relative merit in a competition, more care and attention must be taken when transferring candidates' scores between worksheets or computing results.

Auditors noted many competitions in which managers used more than one method to assess candidates' knowledge, skills, abilities and competencies, providing validation and credibility to the merit of the process and the appointment decision. Auditors noted competitions in which applicants were provided with advance information as to how they were going to be assessed — providing additional transparency to the process. In one competition, in which all candidates were known to the hiring manager, the manager added an element of objectivity in the screening process by instructing applicants to exclude name identifiers from their application packages.

Past Work Performance

It is well established that past work performance is one of the strongest predictors of a person's future performance. The *Public Service Act* lists past work performance as one of the matters to be considered in determining merit. In 2006, public service staffing policy required that past work performance be assessed for candidates being proposed for appointment.

In one case, the failure to assess candidates' past work performance prior to making offers led to a finding that the appointment(s) were not the result of a merit-based process. The subject of the audit was one of two appointments made where the hiring manager confirmed that no reference checks were conducted prior to making offers. From time to time, a check on an applicant's past work performance produces a negative assessment from the candidate's current or former managers. One reason for the policy is that the use of reference checks acts as an independent validation of the assessment

results and as an assurance that the individual is well qualified and competent.

It was noted that over 12% of the files audited did not include documented evidence that candidates' past work performance was assessed. In all these cases, the auditor noted that the candidates were internal and known to the selection panel. The 2005/06 Annual Report observed that documenting the panel discussions of past work performance provides confirmation of the assessment results and adds transparency and credibility to the overall process. This observation is reiterated.

Of specific concern is the number of largely undocumented competitions where only one applicant applied or was assessed, and where the applicant had been in the position on a temporary basis. These are cases in which the hiring manager's selection decision was based on the candidate's performance in the position. At a minimum, a transparent selection process should include documenting the assessment of the candidate's past work performance against the selection criteria. In one case, for an applicant already in the position on a temporary basis, the hiring manager sought to verify his assessment of the candidate by contacting clients for an independent assessment of the candidate's past work performance. This action provided an additional element of objectivity to the process.

Notification Requirements

Unsuccessful employee applicants have a right to be notified that an appointment has been made. The *Public Service Act* and collective agreements provide a right to seek formal review of the appointment decision on the grounds that the appointment was not merit-based.

The audit found 9 cases with no record of notice to the unsuccessful employee applicants about the outcome of the competition process. In a few of these cases the applicants did receive notification in an earlier stage of the process that they were not going to be considered further. Notifying applicants of their status during the competition is good practice; however, employee applicants must receive final notification confirming the results of the competition. Although the processes were found to be merit-based, these files were flagged with exception due to the absence of final notification to the unsuccessful employee applicants.

While most hiring managers are providing final notification to the unsuccessful candidates, the auditors noted that notification did not always disclose full details regarding the appointments being made or provide other relevant information. For example, there are specific collective agreement provisions that entitle unsuccessful employee applicants to further appointment details such as the appointee's name and classification if the successful applicant was an employee. Current policy requires managers to provide all unsuccessful employee applicants with the opportunity to receive feedback about why they were not offered the position. The auditors noted competitions in which candidates were not provided with an offer of feedback, not advised that an eligibility list had been established, and the term of the list, or were notified that only one appointment had been made when there were more.

The failure to disclose the full results of the appointment decision to unsuccessful applicants affects the transparency of the process and may also undermine confidence in the merit of the process and resulting appointment(s).

Some good practices were found of managers keeping applicants well informed throughout the competition process via e-mail, providing personalized letters to unsuccessful candidates, or providing applicants with updated notification of their placement on the eligibility list as offers were being made.

Standards of Conduct

BC Public Service employees are bound as a condition of their employment to comply with a code of conduct to exhibit the highest standards of conduct due to their responsibilities to the citizens of British Columbia.

The Standards of Conduct require employees to disqualify themselves as participants in personnel decisions involving direct relatives or people living in the same household. The Standards also restrict a reporting relationship where one employee has influence, input or decision-making power over the relative's performance evaluation, salary premiums, special permissions, conditions of work and similar matters unless a Deputy Minister has specifically waived the restriction. A conflict of interest occurs when an employee's private affairs are in conflict, or could result in a perception of conflict, with the employee's duties or responsibilities in such a way that the employee's actions or conduct could undermine or compromise the public's confidence in the employee's ability to discharge

work responsibilities or the trust that the public places in the public service.

Three cases were found to be the result of a merit-based process, but were flagged with exception because of the conflict of interest, or perception of conflict, that existed.

In one case, an applicant was the sibling of the hiring manager's common law spouse. The applicant was ultimately appointed and reports to the manager. The hiring manager was involved in assessing all the candidates. The manager abstained from scoring the relative, albeit the manager felt that the relationship was not a direct one. The decision to abstain from scoring the relative, yet scoring all other candidates, did not serve to remove the manager from any questions about the manager's objectivity and the perception of a conflict of interest.

In another case, a reference was obtained for the top-ranked candidate from a former supervisor in another ministry. The file notes indicate that the referee stated that he was related to the candidate. The notes did not indicate the nature of the relationship, but the manager did not discount the referee's assessment of his relative's past work performance. Although a further reference was sought, who provided similar comments about the applicant, conducting a third or alternate reference would have added objectivity to the assessment process.

In the last case, a candidate who was considered in a competition, and ultimately successful in being placed on the eligibility list, was also involved in the administration of the competition. The individual was named as the "contact" on the posting ad to field applicants' questions and also received application packages. The documentation indicated that applications were forwarded to the individual before she applied. This person should have removed herself from a conflict of interest by advising the manager that it was inappropriate that she be involved in the administration of the process. It is reasonable to conclude that other candidates, other employees and the public could question her objectivity. Even the perception of conflict undermines confidence in the merit of the appointment and its process.

The actions taken by the employees described in the above cases were not aligned with the principle that the highest standards of conduct among public service employees are essential to maintain and enhance the public's trust and confidence in the public service.

2.0 Staffing Reviews

2.1 Staffing Review Process

The staffing review process has been provided for by the *Public Service Act* since December 1, 2003. The process provides employees who are unsuccessful applicants to an appointment with a right of review of the proposed or pending staffing decision. The relevant section of the Act that describes the process is included in this report as Appendix F and the accompanying Regulation is included in this report as Appendix G.

As the final step in an internal staffing review process, the Merit Commissioner is responsible for considering requests for reviews of appointments from employees who are unsuccessful applicants to bargaining unit positions on the ground that the appointment did not comply with the two fold test of merit: (1) that the individual was not qualified for the job and (2) that the process was not fair in selecting that individual.

The mandate of the Merit Commissioner is to conduct a review into the appointment on the basis of the grounds presented by the employee requesting the review. After conducting a review, the Merit Commissioner may dismiss the request for review, or direct that the appointment or the proposed appointment be reconsidered. The Merit Commissioner's decision is final and binding.

The comprehensive review starts with the employee who requests the review and includes, but is not limited to all written documentation related to the staffing process. The Merit Commissioner may request additional information from the parties, including verbal evidence to support the written documentation. Discussions may take place with the manager responsible for the appointment decision or other members of the assessment team, or if appropriate, the ministry's Strategic Human Resources manager, the BC Public Service Agency or with professional associations. These discussions assist to identify the issues, establish clear finding of fact, and lead to reasons for the decision.

Two new elements were added to the review process in the 2006/2007 fiscal year. The Merit Commissioner committed to issuing a decision on all requests for review within 30 days of receipt of the review. A timely decision is important to both the employee who is concerned about the outcome and the ministry for operational requirements. The 30 day timeline for a decision has been met for all reviews received since its inception in the fall, 2006. As well, the Merit Commissioner sends a Point of Service Survey to each employee once the decision for the request for review has been issued. These surveys are for the purpose of continuous service improvement.

2.2 Review Decisions

Requests Outstanding from the 2005/2006 Fiscal Year

The 2005/2006 Annual Report indicated that not all requests received were decided in that fiscal year as a result of the position of Merit Commissioner being vacant from November 2005 to May 2006. There were 4 outstanding requests for review that were decided by the current Merit Commissioner in the fiscal year 2006/2007.

Three of the decisions issued by the Merit Commissioner found the appointments complied with the merit principle and supported the ministries' appointment decisions. There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.

In the fourth review, the Merit Commissioner found there was an error in failing to assess the years of continuous service which affected the appointment decision. One of the factors of merit that must be considered, as stated in the *Public Service Act*, is years of continuous service in the public service. The Master Agreement between the Government of the Province of British Columbia and the B.C. Government and Service Employees' Union provides for an agreed method of assessing applicants' years of continuous service for positions in the bargaining unit. If the highest rated qualified applicant has the most years of continuous service, this applicant is appointed. If not, there is a calculation to be done to determine which qualified applicants, if any, are relatively equal to the highest rated applicant. The qualified applicant who is relatively equal and has the most years of continuous service will be appointed. In this case, the calculation had not been done at all. The ministry was directed to reconsider the appointment decision. The ministry did assess years of continuous service and offered the position to the employee applicant who should have ranked first. The offer was declined. The position was re-offered to the second ranked applicant and was accepted.

The 4 decisions represented 4 employees, 4 competitions and 3 ministries or agencies.

Requests Filed in the 2006/2007 Fiscal Year

During the 2006/2007 fiscal year, the Merit Commissioner received 15 individual requests for review. All were deemed eligible for review however one request was withdrawn prior to a decision being issued. Fourteen decisions were issued by March 31, 2007.

All decisions found that the appointments made complied with merit. The decisions issued represented 13 employees, 14 competitions and 7 ministries or agencies. One employee submitted 2 requests for review for separate competitions.

2.3 Year-to-Year Comparison of Staffing Reviews

	FISCAL YEAR 2004/2005	FISCAL YEAR 2005/2006	FISCAL YEAR 2006/2007
Requests for Review Received	32	12	15
Requests for Review Outstanding from Previous Fiscal Year	—	16	4
Requests for Review Ineligible or Withdrawn	5	1	1
Total Eligible Requests for Review	27	27	18
Decisions Issued*	11	22	18
Decisions Deferred to Next Fiscal Year	16	4	—
Appointments Complying with Merit	7	21	17
Appointments Not Complying with Merit	2	—	1
Inconclusive	—	1	—

* Decisions issued may reflect requests for review from employees on multiple competitions and/or competitions involving a request for review from more than one employee.

2.4 Staffing Review Comments and Observations

Employee applicants submit requests for review of proposed or pending appointments because they believe that appointments have not been merit-based. Review decisions, together with audit findings, provide Deputy Ministers and hiring managers with an indication of how their organizations are managing hiring processes.

The review process is guided by legislative and collective agreement requirements. The review process acknowledges that managers have been delegated staffing authority; they are responsible and accountable for all staffing decisions. Review by

the Merit Commissioner is not designed as a substitute for the judgement of managers but to determine whether the appointment was the result of a fair and reasonable merit-based staffing process. Reviews consider whether the values that are integral to merit-based hiring — consistency, transparency, fairness, reasonableness and relevance — have been applied.

The following comments identify some common concerns expressed by employees who have submitted requests for review. The observations are provided to give managers responsible for staffing some insight into how employees perceive merit in the assessment process and appointment decisions.

Qualifications of Successful Applicant

In 6 reviews, employees questioned whether the individual appointed possessed the qualifications required for the position. In all the reviews conducted, the Merit Commissioner found that employees appointed did possess the qualifications required. Managers may find that making announcements to employees about the qualifications of new employees who are appointed may serve to address employee concerns.

Assessing Competencies

A number of the reviews indicate managers are assessing applicants' competencies using behavioural-event interviews. In 7 reviews, employees raised concerns regarding the validity and use of such interviews. These employees were not familiar with or had not been assessed before with this approach. The reviews found that requiring applicants to provide appropriate examples of past behaviours that demonstrate their competencies was a valid assessment tool. Employees have access to a comprehensive electronic competency resource centre maintained by the BC Public Service Agency.

The 2005/06 Annual Report observed the lack of publicly accessible information about the behavioural-based competency assessment tool used in the public service. Now there is a summary of descriptions available to the public on the Public Service Agency web site.

In 4 of the reviews, the employees who requested the reviews were either in the positions or similar positions, on an acting basis, yet did not pass the assessment process. They expected the selection panel to be familiar with their daily performance

and were concerned that they did not pass the process. One such applicant was not familiar with the competency-based interview approach; while the panel had allocated one hour for the interview, the applicant assumed the panel was aware of her competencies and used just 15 minutes of the allotted time for responding. The Merit Commissioner's decisions acknowledged the applicants' experience but confirmed that selection panels do not assume employees' experience or competencies even if members of the panel are familiar with the applicant's work. It is up to an employee to tell the panel and to demonstrate their competencies to the panel's satisfaction.

Past Work Performance Assessments

Past work performance is one of the factors of merit to be considered in the *Public Service Act* and BC Public Service staffing policy requires that a specific assessment of past work performance be conducted as part of the assessment process. It is one of the most valid predictors of future performance and is an essential element in assessing applicants by seeking independent factual evidence about an applicant from current and past managers or supervisors.

A number of employees indicated in their submission that they believed their past work performance had not been properly considered. Most competitions go through stages of assessment. Past work performance checks are often left to the final stage of assessment and done only for the top-ranked candidates who are likely to be offered a position. Where an applicant has not satisfactorily passed the assessment, no past work performance checks may be carried out, as no offer is going to be made to the individual. This is an acceptable practice which saves time and prevents references being contacted unnecessarily. Most hiring managers explain at the outset of the process that an applicant must pass each stage of the process to be considered further.

One request for review expressed concern that the panel failed the employee on past work performance based on the level of absenteeism. The Merit Commissioner found that the requirement for regular attendance was reasonable, particularly as the position was a supervisory one and expected to be a role model for other employees in all areas of performance, including attendance. The decision considered that the ministry had a program for attendance management that allowed for accommodation for illness and other involuntary absences, and that the ministry had an established standard for number

of absences. A fundamental principle of any employment relationship is the necessity for all employees to attend work on a regular and consistent basis.

In another review, the panel failed an employee applicant based on a negative past work performance review from a previous supervisor. The Merit Commissioner acknowledged the panel had developed a reasonable, valid and objective process for assessing past work performance and that a failed past work performance was a valid reason for not hiring an applicant.

In-Service Applicants' Access to Opportunities

Two employees expressed concern in their requests for review that posting vacancies to the general public was eliminating advancement opportunities for competent and capable in-service applicants who have considerable experience. The Merit Commissioner has not accepted this as an argument that hiring was not merit-based.

The Merit Commissioner's 2005/06 Annual Report had noted with concern the number of job competitions that restricted the applicant pool to existing employees. In late October 2006, government issued the Corporate Human Resources Plan and subsequently opened all competitions to external candidates. This is a step in the effort to renew the Public Service and to make it more representative of all British Columbians. As the 2006 audit results show, employees have not been disadvantaged by competing against an open marketplace of applicants.

Standards of Conduct

One review was concerned with a conflict of interest issue. A competition resulted in an offer of employment to the top-ranked applicant who had been a consultant, previously providing a business service to the ministry. The ministry outlined the requirement for all employees to comply with the Standards of Conduct for Public Service Employees and asked the potential employee to ensure there were no on-going private business interests which would conflict with the code of conduct, as a condition of employment. Concerns for the successful applicant's privacy had prevented details of these business arrangements being released. Other employees had no way of knowing whether a conflict of interest continued.

As the government is making more effort to draw in new talent from the external marketplace, there may be more need to explicitly communicate how staffing managers and new employees are dealing with previous private sector business relationships so that ethical standards such as the code of conduct are being observed.

3.0 Outreach

May 2006 to March 31, 2007 marked the first year of the independent Merit Commissioner's Office. As a priority, outreach was directed to the key stakeholders of the BC Public Service and included meetings with the Executive Director of the BC Excluded Employees' Association (BCEEA), the President of the BCGEU, the Executive Director of the Professional Employees' Association and monthly meetings with the Deputy Minister of the BC Public Service Agency. Presentations about the new role were made to the Council of Ministry Strategic Human Resources heads, to the Client Services Team of the BC Public Service Agency and to a conference of all BC Public Service Agency employees.

The BCEEA hosted two meetings of managers and excluded supervisors in Vancouver and Victoria and invited the Merit Commissioner to discuss the topic of "Administering the Principle of Merit in a Less Structured Environment." These lively question and answer sessions were published in the BCEEA newsletter.

The Merit Commissioner and the President of the Public Service Commission of Canada were guest speakers at a Director's Dialogue open to students and professors of the School of Public Administration at the University of Victoria. The former Dean of the School of Management and current Chair for Public Sector Management at the University of Ottawa met with the office to discuss his research, and his experience with the Public Service Commission which performs audits of the federal public service. Information was exchanged with an Australian academic who helped to found the Australian Merit Protection Commission, and with the Executive Director of the US Merit Systems Protection Board which provide oversight of merit in their national public sector workforce.

The Office hosted a training exchange for a staff person from the Yukon Public Service Commission interested in learning the audit and review functions that could be applied to staffing processes for their government.

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Appendices

Appendix A — Frequently Asked Questions
- The Merit Principle and the Random Audit Process
- The Audit Program

Appendix B — Merit Audit Program

Appendix C — Random Selection for Merit Performance Audits
- BC STATS Report

Appendix D — Organizations within the Merit Commissioner's Jurisdiction

Appendix E — 2006 Merit Performance Audit Results by Organization

Appendix F — *Public Service Act*
Part 4 – Review of Staffing Decisions

Appendix G — *Public Service Act*
Review of Staffing Decisions Regulation

Appendix H — Glossary

APPENDIX A

Frequently Asked Questions:

— The Merit Principle and the Random Audit Process

— The Audit Program

Appendix A

Frequently Asked Questions:

1.0 The Merit Principle and the Random Audit Process
2.0 The Audit Program

1.0 The Merit Principle and the Random Audit Process

What is the purpose of the merit principle?

The *Public Service Act* requires that all appointments to and from within the public service be based on the principle of merit unless the appointment is specifically exempt.

"Merit" means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job. A merit-based process involving a competition between individuals is designed to ensure that the best qualified person is hired for the position.

The factors of merit, as provided in the Act, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

Why audit appointments?

The Merit Commissioner is responsible for monitoring the application of the merit principle under the *Public Service Act*. The Act requires the Merit Commissioner to conduct random audits of appointments to and from within the public service to assess whether the appointments are the result of a merit-based process and whether the individuals appointed possessed the

required qualifications for the positions to which they were appointed. The use of an audit process brings rigour and objectivity to the assessment of whether merit was applied.

What is an audit?

An audit is an examination that compares evidence of performance against predetermined criteria, with the goal of verifying adherence and reporting the results, or performance.

The auditor, who is an independent expert, is required to gather enough supporting and independent evidence in sufficient detail to support their conclusion. To ensure that appointments selected for audit are identified at random, the random sampling process is done with the assistance of BC STATS using a mathematical sampling technique.

How will results from audits be reported?

The Merit Commissioner must report audit results to Deputy Ministers or other persons having overall responsibility for the ministries, boards, commissions, agencies or organizations audited.

An annual report is required to be made to the Legislative Assembly. The report to the Legislative Assembly must not disclose:

- Personal information, as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*, relating to individuals who applied for or were appointed to positions in the public service; or
- The identify of persons who participated on behalf of the ministries, boards, commissions, agencies or organizations, as the case may be, in the selection of the individuals appointed to positions in the public service.

What is the effect of the audit?

The annual audit looks at a random selection of appointments made in a calendar year. This is after the recruitment and selection processes have concluded and appointments are made.

The final audit results are provided to the head of the applicable ministry, agency, board or commission. The audit report does not comment on whether an appointment should be overturned in cases where the merit principle was not applied.

A "merit not applied" finding does not imply that the individual appointed is not qualified; in fact, in each such case previously it has been found that individual merit was assessed and the individual(s) appointed was (were) qualified. The process, however, was sufficiently flawed that it would not pass a reasonable test of fairness and, if the flaw was removed, the outcome of the selection process may have been different. The objective of the audit is to identify the problem in the process so that this mistake will not be repeated again.

The independent audit results and findings provides the heads of organizations the ability to hold managers accountable for the results of their actions; recognize work that has been done well; initiate an investigation where the merit principle has not been applied; determine whether training, resources or a change of practice or personnel may be necessary; and confirm whether managers' actions are producing the results that the organization needs.

The Merit Commissioner may decide to initiate an investigation where the merit principle has not been applied, particularly where individuals appointed were not qualified.

The Merit Commissioner tracks results and findings for the purpose of looking for improvements and to be alerted where problems may be reoccurring, without correction.

2.0 The Audit Program

What is the objective of the audit program?

The audit program is a step-by-step guide for the review of documentation and independent evidence relating to an appointment decision. The audit program systematically reviews and assesses information that is relevant to making a reasoned decision on whether merit was or was not applied and whether the individual(s) possessed the required qualifications for the position to which they were appointed.

The audit program recognizes that there are certain common elements to many staffing processes such as a description of job duties, a job posting/advertisement, applications/resumes, an assessment process, a notification process, etc. The audit program has therefore been designed in a logical sequence in order to minimize the number of times the auditor handles specific file documentation. This makes it easier and less time-consuming to complete the audit program.

The auditor is not required to follow the questions/steps in order, provided all sections of the audit program are completed (or noted as not being applicable) before any conclusions are made about whether the appointment was based on merit and whether the individual(s) appointed possessed the required qualifications for the position.

What is considered in a merit performance audit?

Merit is more than the principle itself. There are legislative, collective agreement and policy requirements that are taken into account. The documentation must provide sufficient information to demonstrate how each of the factors of merit was considered (i.e., education, skills, knowledge, experience, past work performance and years of continuous service). The auditors do not attempt to substitute their judgement for that of hiring managers. Auditors look at the selection criteria the manager has determined to be critical for the job and review the process the manager used to assess applicants against these criteria. Auditors determine

whether candidates were treated consistently and fairly, whether the process was transparent, and whether decisions during screening, shortlisting, assessing and selecting were reasonable.

A staffing process that assesses applicants differently enough that one applicant is measurably disadvantaged relative to other applicants or assigns value to factors that are unrelated to competencies to perform the duties of the position, would not meet the test of fairness relative to merit. The appointment decision must be a reasonable outcome of the process.

Auditors check whether the results of the process have been communicated to all employee applicants, whether collective agreement provisions have been applied, where appropriate, and whether decisions have been documented.

Does the audit program support a results-based approach to staffing?

Yes. The audit program provides opportunities for the auditor to describe the staffing process followed and to note assumptions made and/or exceptions.

The audit program does not assume that staffing processes are structured the same way and reflects an approach to staffing that is principles-based and results-oriented by allowing for creativity and flexibility. However, it does generally assume that there are certain common elements related to a staffing process such as: a description of job duties; a statement of selection criteria; consistent and accurate job posting information; a fair and consistent process that assesses candidates against criteria relevant to the job; a system of rating candidates that is established before the assessment process begins; and clearly communicated selection decisions. These should be documented.

APPENDIX B

Merit Audit Program

BRITISH COLUMBIA
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Ministry of Finance Internal Audit & Advisory Services

MEMORANDUM

To: Joy Illington
Merit Commissioner
Office of the Merit Commissioner

August 10, 2007
File No.: 100014

From: Behram Dadachanji
Director, Operations
Internal Audit & Advisory Services
Ministry of Finance

Subject: Merit Audit Program

We have reviewed the methodology used by your auditors to audit public service appointments.

The program addresses your audit responsibilities under the *Public Service Act*.

Our office initially developed the audit methodology in 2001 with the assistance of Office of the Merit Commissioner staff as well as input from a focus group comprised of human resource professionals and line managers from various ministries. Your office has since amended the audit program in response to changes in the *Public Service Act* and for clarity and efficiency.

The issues encountered in each audit will require a significant degree of judgment to assess their impact on the application of the merit principle. The individuals conducting these audits must have extensive training and experience in the human resource field to deal with the subject area issues as well as knowledge of audit methods. Our office will continue to be available for consultation, advice and training. We recommend that your office periodically review the program to ensure quality and consistency, and assess whether issues warrant adjustments to the program. I understand that the program was last reviewed prior to the audit of 2006 appointments.

If the audit program is carried out as designed, we believe that the auditor will examine and obtain sufficient appropriate evidence to form and support an opinion on the application of merit. The results of these audits will allow the Merit Commissioner to reasonably conclude and report on whether:

- the recruitment and selection processes were properly applied to result in appointments based on merit; and
- the individuals when appointed possessed the required qualifications for the positions to which they were appointed.

.../2

Limitations:

The audit program is designed to gain reasonable assurance rather than absolute assurance over past events. The audit program is not designed to uncover collusion involving all panel members, a purposeful manipulation of competition file documents, or to determine the intent behind any misapplication of merit.

original signed by

Behram Dadachanji
Director, Operations
Internal Audit & Advisory Services

Note to Auditor:

1. Obtain the documentation or evidence related to the appointment being audited;
2. Read Appendix "A": Assessing the Use of the Merit Principle, the Audit Process and the Audit Program;
3. Complete the following questions. Should any part of the Audit Program not lend itself to the process used to make the appointment, notate the question(s) or section(s) as "not applicable" and provide a description of the steps and decisions that led to the appointment decision;
4. Based on the evidence conclude whether the appointment was or was not consistent with the Principle of Merit and whether the individual(s) appointed possessed the required qualifications for the position.

1. APPOINTMENT DETAILS

- **Appointment Type*:** (check one)

Permanent Appointment: ____ Temporary Appointment > 7 months: ____ Direct Appointment: ____

*Note: Appointments excluded from audit include: Lateral Transfer; Demotion; Temporary Appointment < 7 months; Auxiliary; Order in Council

- **Details:**

Ministry/Organization		
Branch/Department		
Job Title/Classification		
Location		
Competition # (if applicable)		Circle: In / Out of Service
Competition Restrictions or Preferences (if applicable)	Specify:	
Successful Candidate(s) (circle subject of audit)		
Effective Date of Appointment		
Eligibility List Established (if applicable)	# Applicants Placed on List:	Term of List:

- Comments

2. JOB POSTING/ADVERTISEMENT

		Yes	No
a)	Did the job posting/advertisement (including additional information via electronic links or subsequently given) provide applicants with sufficient detailed and relevant information reflecting both the job and the selection criteria?	☐	☐
	• What evidence supports this finding?		
b)	Did all applicants have access to the same information?	☐	☐
	• What evidence supports this finding?		
c)	Was there consistency, relevancy, reasonableness between the duties described in the job description, the job posting/advertisement and the stated selection criteria?	☐	☐
	• What evidence supports this finding?		

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

3. INITIAL SCREENING FOR APPLICANT ELIGIBILITY

		Yes	No
a)	Were all applications submitted for this competition accounted for? • What evidence supports this finding?	☐	☐
b)	If a late application was not considered, were other late applications, if applicable, treated consistently? • If no, provide details:	☐	☐
c)	Were applications assessed for initial eligibility? (e.g. where applicable: in/out of service, age, eligibility to work in Canada, location requirements, etc.) • What evidence supports this finding?	☐	☐

4. SHORT LISTING

a) From the documentation related to the screening/short listing process:

	IN SERVICE	OUT OF SERVICE (if applicable)	TOTAL
How many applicants were eligible for the competition? (i.e., screened in)?			
How many eligible candidates met the mandatory criteria? (i.e., were short listed)?			
How many eligible candidates did not meet the mandatory criteria?			
How many eligible candidates withdrew from the competition?			

b)	Were eligible applications screened against the same mandatory (short listing) criteria? • What evidence supports this finding?	☐	☐
c)	If equivalencies were advertised, were the accepted equivalent criteria documented and considered? • What evidence supports this finding?	☐	☐
d)	Were applications short listed using only the advertised criteria? • If screening criteria were revised, provide details:	☐	☐

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

4. SHORT LISTING (cont.) **Yes** **No**

e) Did all candidates who met the screening criteria proceed to the next phase of the section process? ☐ ☐

- If no, provide evidence/details (e.g. withdrawals, other):

f) Select a representative sample (suggest 5 – 15%) of the applications that were screened out and check whether any of these candidates met the mandatory screening criteria. ☐ ☐

- Findings:

5. ASSESSMENT PROCESS **Yes** **No**

a) COMPLETE THE ATTACHED AUDIT WORKSHEET (AWS)

b) Were all the mandatory selection criteria assessed? ☐ ☐

- If no, provide details:

c) Were minimum qualifying standards (e.g. pass marks if using numerical ratings) pre-established for all assessment method(s) used? ☐ ☐

- What evidence supports this finding?

- If no, or subsequent changes made, provide details:

d) Review the file documentation for, at a minimum: (1) the successful candidate(s); (2) if applicable, all candidate(s) placed on an eligibility list; (3) the highest ranked unsuccessful candidate; and (4) an unsuccessful candidate with a mid-range score, and answer the following questions.

i) Were candidates assessed and evaluated consistently, using the same standards? e.g. comparison of scoring to marking key and comparison of scoring between candidates. ☐ ☐

- What evidence supports this finding?

- If no, what was the difference, and was it different enough that a candidate is measurably disadvantaged relative to other candidates?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.) **Yes** **No**

ii) Were all assessment scores/marks accounted for? e.g. accurate transcriptions of individual scores to final rating sheet; accurate tabulations, etc. ☐ ☐

- What evidence supports this finding?
- If no, give details of discrepancies.

iii) Were past work performance checks done at some step in the assessment process for, at a minimum, all applicants who were offered a position or placed on an eligibility list? ☐ ☐

- If no, give details.

iv) Were past work performance checks assessed consistently according to criteria relevant to the job? ☐ ☐

- What evidence supports this finding?

v) For BCGEU positions only: Were years of continuous service correctly assessed using the "relatively equal" calculation? ☐ ☐

- What evidence supports this finding?
- If no, did the error of omission or application affect the ranking of candidates? Provide details.

vi) For non-BCGEU positions: If years of continuous service were assessed, was the assessment accurate? ☐ ☐

- What evidence supports this finding?
- If no, did the error affect the ranking of candidates? Provide details.
- If yes, did the application of years of continuous service affect the ranking of applicants? Provide details.

e) When considered as a whole, was the assessment methodology consistent with the stated selection criteria, reasonable, relevant and based only on factors relevant to the work to be performed? ☐ ☐

- What evidence supports this finding?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.)	Yes	No
f) Does the documentation provide sufficient information to demonstrate how each of the factors of merit was considered? (includes education, skills, knowledge, experience, past work performance and years of continuous service) • If no, please provide details.	☐	☐
g) Overall, was the assessment of applicants consistent with the principles of transparency, consistency, relevancy, fairness and reasonableness? • If no, please provide details.	☐	☐

6. APPOINTMENT DECISION	Yes	No
Review the documentation related to: (1) the successful candidate(s); and (2) if applicable, all candidates placed on an eligibility list. For each of these candidates confirm the following:		
a) Candidates were made an offer or, if applicable, placed in correct order on eligibility list.	☐	☐
b) Where a candidate declined an offer, were subsequent offer(s) made in order of eligibility? • If the answer is "no" for any of the above questions, provide details:	☐	☐
c) Is the appointment decision a reasonable outcome of the assessment process? • If no, please provide details.	☐	☐
Review the documentation related to the communication of the appointment decision to the unsuccessful applicants. For each of these candidates, confirm the following:		
d) Did the unsuccessful employee applicants (at a minimum) receive communication (e.g. letter or email) regarding the outcome of the staffing process? • What evidence supports this finding?	☐	☐

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

6. APPOINTMENT DECISION (cont.)	Yes	No
e) If an eligibility list was established and candidate(s) placed on the list, were those candidates advised of their placement on the list and how long the list would be active?	☐	☐
• What evidence supports this finding?		

7. REVIEW OF STAFFING DECISIONS	Yes	No
a) Did this competition prompt a request for an internal inquiry?	☐	☐
• If yes, how many requests were received by the Deputy Minister for this competition?	_____	
Did the Deputy Minister support the manager's appointment decision?	☐	☐
• What evidence supports this finding?		
b) Did the competition prompt a request for review by the Merit Commissioner?	☐	☐
• If yes, how many requests were received by the Office of the Merit Commissioner?	_____	
Did the Merit Commissioner support the ministry's appointment decision?	☐	☐
• What evidence supports this finding?		

8. CONCLUSIONS	Yes	No
a) i) Are you able to determine, i.e. is there enough evidence to reasonably support a conclusion, that the appointment was or was not based on merit?	☐	☐
• If not, what evidence is missing?		
ii) If 8(a) is yes, does this audit lead to the finding that the appointment was based on the principle of merit?	☐	☐
• What evidence/assumption(s) support this conclusion?		
b) Does the file documentation indicate that the individual(s), when appointed, possessed the required qualifications for the position?	☐	☐
• What evidence supports this conclusion?		

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

9. AUDITOR FILE NOTES

Additional documentation/information requested and when received.

10. AUDITOR'S COMMENTS AND OBSERVATIONS

If additional space is required, please reference to a signed and dated attachment that is identified with the Appointment Name and Competition # (if applicable).

a) Indicate whether a specialized hiring person was utilized, if evident (e.g. contractor, BC Public Service Agency HR consultant, in-house expertise such as organization's Strategic HR).

Yes (specify): Circle: No / Unable to Determine

b) Provide a brief description of the process used to make the appointment decision.

c) Comments or observations on issues such as documentation, assessment methodology or process, assessment of past work performance, assessment of years of continuous service, notification, exceptional practices (good/poor), treatment of applicants, etc.

11. AUDITOR SIGN-OFF

I certify this audit was conducted in accordance with generally accepted audit standards utilizing audit methodology reviewed and supported by the Ministry of Finance, Internal Audit and Advisory Services.

Printed Name	Signature	Date

***Note to Auditor**: Please place this completed Merit Audit Program, with appropriately referenced supporting evidence, in Audit File.*

COMPETITION # _____ Auditor's initial: _____ Date: _____

AUDIT WORKSHEET (To be completed as part of Section 5 of the Audit Program)

(See reverse side for instructions)

MANDATORY SELECTION CRITERIA	ASSESSMENT PROCESS
PREFERRED SELECTION CRITERIA	ASSESSMENT PROCESS

AUDIT WORKSHEET — INSTRUCTIONS

1. In the left-hand column, list all the mandatory and preferred selection criteria from the job advertisement, as well as any additional selection criteria provided as a supplement to the advertisement. Place one criterion per line.
2. Review all assessment methods and tools (e.g. tests, interviews, reference questions, etc.) used as part of the selection process. Determine how each of the mandatory selection criteria was assessed and place this information in the right-hand column next to the relevant mandatory criterion. If a specific selection criterion was missed by any of the assessment methods used, enter "Not Assessed" in the right-hand column next to that criterion.

EXAMPLE: Here is a hypothetical statement of qualifications from a Job Posting:

"Diploma, certificate or program completion in computer science and at least three years of related experience in business and systems analysis. Basic knowledge of computer systems design. Knowledge of relational database concepts. Excellent technical writing skills."

Assume that the information in the job competition file shows that the panel used education (Diploma, certificate or program completion in computer science) as a basis for screening the applicants. The panel also used experience to screen applicants and later asked the preferred candidate's references about the preferred candidate's actual experience. The panel assessed "basic knowledge of computer systems design " in the oral interview and tested for "knowledge of relational database concepts" as part of a written test administered to all short-listed candidates. The panel did not test to determine whether each candidate had excellent technical writing skills and did not ask references whether the candidate possessed this skill.

Using the above example, the audit worksheet for this competition file would be completed as follows:

MANDATORY SELECTION CRITERIA	ASSESSMENT PROCESS
EDUCATION	
Diploma, certificate or program completion in computer science	Assessed during the Shortlisting Process
EXPERIENCE	
At least three years of related experience in business and systems analysis	Assessed during the Shortlisting Process Reference Check
KNOWLEDGE	
Basic knowledge of computer systems design	Oral Interview Reference Check
Knowledge of relational database concepts	Written Test
SKILLS	
Excellent technical writing skills	Not Assessed

APPENDIX C

Random Selection for Merit Performance Audits

BC STATS

RANDOM SELECTION FOR MERIT PERFORMANCE AUDITS

Prepared for the Office of the Merit Commissioner

July 2007

BACKGROUND

The Office of the Merit Commissioner was established by legislation in August 2001. Under this legislation, the Merit Commissioner is responsible for performing audits of public service appointments, as part of a program of monitoring the application of the merit principle across government. The results of the audits are reported to senior management in ministries and other organizations covered by the *Public Service Act*. In aggregate, the results are also communicated to the Legislature as part of the annual report of the Commissioner.

The audits are designed to assess whether recruitment and selection practices have resulted in appointments based on merit, and whether individuals possess the required qualifications for the position to which they were appointed. This requires a close study of the details of each appointment by an expert in the staffing process.

BC STATS has undertaken to ensure that the selected cases are both random and representative. This paper describes the appointments that have taken place in the past year, and explains the method that was used to make an audit selection from these appointments.

In prior years, the resources available for auditing have been limited and number of audits conducted has been constrained accordingly. The following table presents the number of audits conducted in each of the previous five years.

YEAR	# of Appointments	# of Audits
2001	1,481	39
2002	1,835	30
2003	2,772	40
2004	2,904	39
2005	2,871	70

This year, significant additional resources were made available for auditing as the public service is undergoing growth in hiring as the number of retirements begins to increase. In 2006, there were an estimated 3,754 appointments made of which 308 were audited.[1]

[1] See "Appointments 2006" for a full discussion of the number of appointments originally put forward for audit. A certain proportion, upon review, was deemed out of scope and this proportion was then estimated back into the original population.

Appointments 2006

Appointments were selected based on the 2006 calendar year. In 2006, according to the query parameters as established by the Office of the Merit Commissioner, 4,003 appointments were identified. Order-in-Council (OIC), transfers, auxiliary appointments, and temporary appointments of less than seven months are not covered in this study.

These 4,003 appointments spanned 189 job code descriptions in 35 ministries and organizations covered by the *Public Service Act*. The most common job titles were "Business Leadership" and "Clerk R9" with 308 and 196 appointments respectively.

Ministries with the highest number of appointments, collectively comprising 56% of all 2006 appointments include:

- Children and Family Development 588 (14.7%)
- Forests and Range 566 (14.1%)
- Attorney General 463 (11.6%)
- Public Safety and Solicitor General 367 (9.2%)
- Labour and Citizens' Services 265 (6.6%)

Forty-seven percent (47%) of appointments occurred in Victoria in 2006.

Random Selection of Cases

The objective of the Merit Commissioner study is to sample all permanent new hires, promotions and temporary appointments greater than 7 months in order to obtain an unbiased picture of recruitment practices in the public service. This objective requires a random sample to effectively and efficiently monitor application of the merit principle in public service recruitment.

Within the objective of selecting a random sample, it is also important to ensure that the sample is representative of the actual population. Appointments can be categorized by classification, ministry or organization, location, ministry size, whether permanent or temporary exceeding seven months, and whether the appointees

are new hires or internal employees. See the section entitled "Distribution of Audits" for comparisons of all 2006 appointments and the sample selection.

The Office of the Merit Commissioner requested BC STATS to produce a sample size of 330.

As in previous years, three categories were selected as being of greatest importance:

- Ministry/organization size (large or small),
- Appointment type (direct appointment, permanent or temporary exceeding seven months), and
- Employee type (new hire or internal hire).

Ministry size was based on total regular employment at the start of the study period. Ministries with 1,000 or more employees were deemed large; ministries with less than 1,000 employees were deemed small.

A 2x3x2 matrix was built to reflect the number of possibilities in each of the above three categories, providing us with 12 "cells" into which appointments can be sorted. However, there were no temporary appointments of new hires into large ministries, which eliminated one of the cells. This left 11 cells.

To select the cases for audit, each of the 4,003 appointments was allocated to one of the 11 cells. The number of audits within each cell was calculated as the overall selection ratio of (330/4,003) multiplied by the number of cases in the cell. The result of this calculation was rounded to the nearest whole number. This number of cases was then obtained from each cell by sorting in a purely random order and selecting the required number sequentially.

After the final sample had been presented to the Office of the Merit Commissioner for auditing, two of the 330 records were not audited because they were hires completed by the newly formed Land Title and Survey Authority which does not fall under the purview of the Merit Commissioner. Upon further review, seven records were identified and removed from the original frame including the two records removed from the sample. This left 328 audits to be conducted on 3,996 competitions in 2006.

After the auditors requested the case files for the 328 audits, a further 20 cases were identified as being out-of-scope due to coding errors in the source data. In particular, temporary appointments less than seven months are not subject to review by the Merit Commissioner. These 20 cases were removed from the sample. This left 308 appointment files that were actually audited.

However, since 20 records out of 328 cases represents a significant fraction (i.e. 6.1%), BC STATS used the strata information to estimate back into the original population how many cases would likely be deemed to be out-of-scope if in fact the entire population of cases had been audited. The statistics presented in the rest of the report are based on this reduced population (308/3,754).

In summary, random sampling was used to ensure broadly based auditing of all appointments. Sampling independently in the abovementioned categories ensures correct proportional coverage of:

- large and small ministries,
- permanent, temporary and direct appointments, and
- new hires versus internal appointments.

As a result, the chance of audit is *virtually* identical for each and every appointment, while the correct proportion of audits remains guaranteed in the most important categories.

Distribution of Audits

The following four tables show how the audits are distributed according to various characteristics of appointments. The three tables cover the categories that were used in sample stratification. In all cases, percentages were rounded to the first decimal place, and sum to 100%. The match between the sample percentages and the corresponding percentages among all appointments is quite close, indicating that the sample is reasonably representative of the whole.

Audits by Ministry/Organization Size

Ministry	Adjusted # of appointments*	Percent of all appointments	Number of Audits	Percent of all Audits
Large	2,746	73.2%	224	72.7%
Small	1,007	26.8%	84	27.3%

Audits by Appointment Status

Appointment Status	Adjusted # of appointments*	Percent of all appointments	Number of Audits	Percent of all Audits
Direct Appointment	58	1.5%	7	2.3%
Temporary	243	6.5%	22	7.1%
Permanent Hire	3,452	92.0%	279	90.6%

Audits by Employee Type

Employee Type	Adjusted # of appointments*	Percent of all appointments	Number of Audits	Percent of all Audits
New Hire	636	16.9%	54	17.5%
Internal	3,118	83.1%	254	82.5%

*Numbers may not sum to 3,754 due to rounding.

Uses and Limitation of Audit Results

Sampling is used to control costs and minimize respondent burden. Auditing competition files after the competitions have been closed is both expensive and time-consuming. Because each file in an audit must be reviewed with the same degree of diligence, there are limited cost savings for conducting a larger sample. A sample four times larger would cost nearly four times more to complete. The appointments selected for audit are a random and representative sample of all appointments in 2006 — the audit selection is unbiased in regards to the sampling framework.

Nonetheless, the resources available for auditing in 2006 have increased substantially over previous years. This year more than four times as many (308) audits were conducted than last year (70). As such, this year's findings will allow for a much more precise estimate than in previous years of the number of cases in the total population that would be found to be "merit not applied" and "merit with exception" if the whole population had been audited. BC STATS will work with the Office of the Merit Commissioner to produce these estimates once the 2006 findings become available.

As such, this year's audit will provide a higher degree of assurance than in past years about the application of merit in the appointment process.

APPENDIX D

Organizations within the Merit Commissioner's Jurisdiction

APPENDIX D

ORGANIZATIONS WITHIN THE MERIT COMMISSIONER'S JURISDICTION

Ministry of Aboriginal Relations and Reconciliation
Ministry of Advanced Education
Ministry of Agriculture and Lands
Ministry of Attorney General
Ministry of Children and Family Development
Ministry of Community Services
Ministry of Economic Development
Ministry of Education
Ministry of Employment and Income Assistance
Ministry of Energy, Mines and Petroleum Resources
Ministry of Environment
Ministry of Finance
Ministry of Forests and Range
Ministry of Health
Ministry of Labour and Citizens' Services
Ministry of Public Safety and Solicitor General
Ministry of Small Business and Revenue
Ministry of Tourism, Sport and the Arts
Ministry of Transportation

BC Mental Health Society
BC Pension Corporation
BC Public Service Agency
Elections BC
Environmental Appeal Board
Forensic Psychiatric Services Commission
Forest Appeals Commission
Forest Practices Board
Islands Trust
Oak Bay Lodge Continuing Care Society
Office of the Auditor General
Office of the Information and Privacy Commissioner
Office of the Merit Commissioner
Office of the Ombudsman
Office of the Police Complaint Commissioner
Office of the Premier
Office of the Representative for Children and Youth
Provincial Capital Commission
Public Sector Employers' Council
Royal BC Museum
Tillicum and Veterans' Care Society

APPENDIX E

2006 Merit Performance Audit Results by Organization

APPENDIX E

2006 MERIT PERFORMANCE AUDIT RESULTS BY ORGANIZATION

Ministry/Agency	Organization	Merit Applied	Merit With Exception	Unable to Determine	Merit Not Applied
Ministry of Aboriginal Relations and Reconciliation	Aboriginal Relations and Reconciliation	2	0	0	0
Ministry of Advanced Education	Advanced Education	3	0	0	0
Ministry of Agriculture and Lands	Agriculture and Lands	2	1	0	0
Ministry of Agriculture and Lands	Integrated Land Management Bureau	10	1	0	0
Ministry of Attorney General	Attorney General	19	12	0	0
Ministry of Children and Family Development	Children and Family Development	35	7	0	1
Ministry of Community Services	Community Services	2	1	0	0
Ministry of Economic Development	BC Olympic and Paralympic Games	2	0	0	1
Ministry of Economic Development	Economic Development	0	0	0	0
Ministry of Education	Education	6	1	0	0
Ministry of Employment and Income Assistance	Employment and Income Assistance	9	3	0	0
Ministry of Energy, Mines and Petroleum Resources	Energy, Mines and Petroleum Resources	5	1	0	0
Ministry of Environment	Environment	9	1	0	0
Ministry of Environment	Environmental Assessment Office	1	0	0	0
Ministry of Finance	Finance	5	2	0	0
Ministry of Forests and Range	Forests and Range	37	1	0	4
Ministry of Forests and Range	Housing and Construction Standards	4	0	0	1
Ministry of Health	Health	15	4	2	0
Ministry of Labour and Citizens' Services	Labour	5	0	0	0
Ministry of Labour and Citizens' Services	Citizens' Services	12	1	0	1

Continued

Ministry/Agency *(Continued)*	Organization	Merit Applied	Merit With Exception	Unable to Determine	Merit Not Applied
Ministry of Public Safety and Solicitor General	Public Safety and Solicitor General	20	4	0	0
Ministry of Small Business and Revenue	Small Business and Revenue	7	0	0	1
Ministry of Tourism, Sport and the Arts	Tourism, Sport and the Arts	4	0	0	0
Ministry of Transportation	Transportation	12	3	1	0
BC Pension Corporation	BC Pension Corporation	4	0	0	0
BC Public Service Agency	BC Public Service Agency	6	1	0	0
Forest Practices Board	Forest Practices Board	1	0	0	0
Islands Trust	Islands Trust	1	0	0	0
Oak Bay Lodge Continuing Care Society	Oak Bay Lodge Continuing Care Society	2	0	0	0
Office of the Auditor General	Auditor General	2	0	0	0
Oil and Gas Commission*	Oil and Gas Commission*	4	3	0	0
Tillicum and Veterans' Care Society	Tillicum and Veterans' Care Society	3	0	0	0
		249	**47**	**3**	**9**

TOTAL APPOINTMENTS AUDITED: 308

Note: There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.

* The Oil and Gas Commission is no longer covered under the *Public Service Act* and will not be included in future audits

APPENDIX F

Public Service Act
Part 4 – Review of Staffing Decisions

APPENDIX F

Public Service Act

Part 4 – Review of Staffing Decisions

Definitions

16 In this Part, **"deputy minister"** means,

(a) with respect to a position in a ministry, the deputy minister of that ministry, and

(b) with respect to a position with a board, commission, agency or organization, the person having overall responsibility for the board, commission, agency or organization.

Request for feedback on staffing decision

17 (1) An employee who is an unsuccessful applicant for an appointment to the public service may, within the prescribed time, request from the individual responsible for the appointment an explanation of the reasons why he or she was not appointed.

(2) The responsible individual must provide an explanation as soon as practicable after receiving a request under subsection (1).

Inquiry into staffing decision

18 (1) An employee who has made a request under section 17 may request an inquiry into the application of section 8 (1) with respect to the appointment.

(2) A request under subsection (1) must be made within the prescribed period to the deputy minister responsible for the position and must include a detailed statement specifying the grounds on which the request is made.

(3) The deputy minister who receives an application under subsection (1), or a person designated by the deputy minister, must inquire into the appointment and confirm the appointment or proposed appointment or direct that the appointment or proposed appointment be reconsidered.

Review by merit commissioner

19 (1) An employee who is an unsuccessful applicant for an appointment to a position in a bargaining unit under the *Public Service Labour Relations Act* who has made a request under section 18 and disagrees with the decision of the deputy minister or designate under that section may request a review of the appointment by the merit commissioner on the ground that section 8 (1) has not been complied with.

(2) A request under subsection (1) must be made in writing within the prescribed period to the merit commissioner and may only be based upon the grounds submitted to the deputy minister under section 18 (2).

(3) Subject to the regulations, the merit commissioner must establish the procedure for the expeditious consideration of requests for reviews under subsection (1).

(4) If an applicant requests a review under subsection (1), the merit commissioner must, before undertaking the review, inform the deputy minister of the review.

(5) The merit commissioner may summarily dismiss a request for a review under subsection (1) if

(a) the request for review is not made within the time limit prescribed under subsection (2),

(b) the merit commissioner considers that the request for review is frivolous, vexatious or trivial or is not made in good faith,

(c) the request for review does not contain sufficient information to determine whether section 8 (1) has been complied with, or

(d) the grounds, even if proven, are not sufficient to establish that section 8 (1) has not been complied with.

(6) After conducting a review, the merit commissioner may

(a) dismiss the review, or

(b) direct that the appointment or the proposed appointment be reconsidered.

(7) This section does not apply with respect to an appointment to the public service that is referred to in section 10.

Inquiry Act

20 For the purpose of a review under section 19, the merit commissioner has the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Decision final

20.1 A decision of the merit commissioner under section 19 is final and binding.

APPENDIX G

Public Service Act
Review of Staffing Decisions Regulation

APPENDIX G

Public Service Act

Review of Staffing Decisions Regulation

Definition

1 In this regulation, **"Act"** means the *Public Service Act*.

Request for feedback

2 (1) An unsuccessful applicant for an appointment to the public service who wishes to make a request for an explanation to the individual responsible for the appointment under section 17 of the Act must do so within five days of receiving notice of the staffing decision.

(2) The request may be made orally, either in person or by telephone, or in writing.

(3) A written request must be given to the individual responsible or sent to that individual by courier or electronic transmission.

Request for an inquiry

3 (1) An employee who wishes to request an inquiry under section 18 of the Act must make a written request to the deputy minister within five days of receiving an explanation under section 17 of the Act.

(2) The written request must be given to the deputy minister or sent to the deputy minister by courier or electronic transmission.

Request for a review

4 (1) An employee who wishes to make a written request for a review under section 19 of the Act must do so within five days of receiving the results of the inquiry under section 18 of the Act.

(2) The written request must be given to the merit commissioner or sent to the commissioner by courier or electronic transmission.

Remedy of irregularities

5 A review under section 19 of the Act is not invalid because of a defect in form, a technical irregularity or an error of procedure that does not result in a denial of natural justice, and the merit commissioner may relieve against those defects, irregularities or errors of procedure on just and reasonable terms.

APPENDIX H

Glossary

APPENDIX H

Glossary

Auxiliary appointment — the appointment of an individual to a term-limited position that is not of a continuous nature. For example, seasonal positions, positions created to carry out special projects or work which is not continuous, and temporary positions created by special employment programs such as co-ops and youth employment programs.

Direct appointment — under the authority of the *Public Service Act*, an employee who has been directly appointed to the public service by the Deputy Minister of the BC Public Service Agency in unusual or exceptional circumstances.

Lateral transfer — the movement of an employee from one position to another with the same salary range.

Order-in-Council appointment — as provided by Section 15 of the *Public Service Act*, individuals appointed by the Lieutenant-Governor-in-Council.

Public service — refers to (a) all ministries of the government, and (b) any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant-Governor-in-Council declares the *Public Service Act*, or a provision of this Act, to apply.

Regular appointment — the appointment of an individual who is employed for work that is of a continuous full-time or part-time nature. This may sometimes be referred to as a permanent appointment.

Temporary appointment — the appointment of a regular employee to another position for a limited period of time. For example, a vacancy created by approved leaves of current employees, time limited projects, recruitment lag and seasonal or temporary relief work.

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